



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER

61 FORSYTH STREET

ATLANTA, GEORGIA 30303-8960

SEP 27 2011

Ms. Coleen Sullins
Director, Division of Water Quality
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Ms. Sullins:

The Environmental Protection Agency has completed its Clean Water Act (CWA) Section 303(c) review of North Carolina's action to reissue the chloride variances for Mount Olive Pickle Company and Bay Valley Foods, LLC (formerly Dean Pickle and Specialty Products Company). In accordance with Section 303(c) of the CWA and 40 CFR Part 131, the EPA hereby approves both variances.

On March 29, 2011, the North Carolina Environmental Management Committee granted revised variances to both facilities and set out the chloride effluent limits and permit conditions to be included in each National Pollutant Discharge Elimination System (NPDES) permit (Mount Olive: No. NC0001074 and Bay Valley Foods: NC0001970). The chloride variances were certified as "duly adopted in accordance with N.C.G.S. § 143-215.3(e) and 15A NCAC 2B .0226, following public notice, public comment, additional information submitted by Mount Olive Pickle Company and Bay Valley Foods, LLC, and consideration by the NPDES Committee of the Environmental Management Commission." This was certified by Francis W. Crawley, North Carolina Special Deputy Attorney General, in a letter dated April 8, 2011, to the EPA Region 4 Water Protection Division Director.

Mount Olive Pickle Company

Mount Olive Pickle Company has owned and operated a pickle manufacturing facility in Wayne County, North Carolina since 1926 and discharges wastewater to Barlow Branch, a Class C-Swamp water. On June 12, 1997, the EPA approved the initial variance to the chloride action level of 230 mg/l (*Surface Waters and Wetlands Standards*, 15A NCAC 2B .0211(4)). On April 12, 2006, the EPA approved a revision to that variance which reflected progress made from the incorporation of waste minimization techniques since 1996 and which included a 29 percent decrease for monthly average of chlorides (16,047 lbs/day) and a 37 percent decrease for a daily maximum (24,555 lbs/day). The current permit includes a further reduction to 13,055 lbs/day monthly average and 22,622 lbs/day daily maximum, a reduction of 19 percent and 8 percent, respectively.

Mount Olive continues to study and evaluate chloride removal and reduction technologies as described in detailed annual reports submitted to the State as required by the permit and provided to the EPA for review. This research includes working with researchers at both the University of Arkansas and North Carolina State University. Since the date of the original variance, there has been an overall downward trend in indicators such as "Pounds of Salt Discharged to Cases Manufactured" which went from a high of 2.27 lbs/case in 1991 to 0.34 lbs/case in 2009.

An updated economic review of the factors used to justify the original variance was prepared by Roger H. von Haefen of the National Bureau of Economic Research for Mount Olive, which confirmed that the original findings are still in effect and have not changed. Mount Olive currently has 772 employees (Town of Mount Olive population is 4,360). Almost 75 percent of the employees are minorities. Total wages and compensation are over \$28 million/year and total purchases made by the company within the State and local area is approximately \$60 million/year.

At this time, there are no proven end-of-pipe technologies for reducing the chloride limits further, leaving waste minimization as the most proven technology that is economically feasible. The EPA concurs with the State, pursuant to 40 CFR Section 131.20, that information available at this time does not show that the CWA Section 101(a)(2) uses are attainable, and continuance of the variance conditions is consistent with the CWA and 40 CFR Part 131.

Bay Valley Foods, LLC

Bay Valley Foods owns and operates a pickle manufacturing facility in the Town of Faison, Duplin County, North Carolina and discharges wastewater to an unnamed tributary to Panther Branch, a Class C-Swamp water. On June 12, 1997, the EPA approved a variance to the chloride action level of 230 mg/l (*Surface Waters and Wetlands Standards*; 15A NCAC 2B .0211(4)). On April 12, 2006, the EPA approved a revision to that variance which reflected progress made from the incorporation of waste minimization techniques since 1996 and which included a 12 percent decrease for monthly average discharge of chlorides (13,476 lbs/day) and a 27 percent decrease for a daily maximum (19,120 lbs/day). At this time, the facility's current level of performance does not support a further reduction in chlorides; therefore, the current permit renews those values of 13,476 lbs/day monthly average and 19,120 lbs/day daily maximum.

Bay Valley Foods continues to study and evaluate chloride removal and reduction technologies. Bay Valley Foods also completed several chloride reduction projects at a cost of \$1,225,000 during the most recent permit period. These projects included a Stormwater/Process Waste Water Overflow Pond Expansion Project, De-Salt Process Improvements and a Brine Reclaim Process Improvements. Since the date of the original variance, Bay Valley Foods has been able to show a decline or a stabilization of chloride discharge even as it increased productivity. For example, the facility had a 3 percent increase in production in 2009, but was able to show a decrease in the total amount of chlorides discharged by 5 percent. However, even with those reductions, the facility's current level of performance does not support a further reduction in the chloride effluent limits at this time.

An updated economic review of the factors used to justify the original variance was prepared by Roger H. von Haefen of the National Bureau of Economic Research for Bay Valley Foods, which confirmed that the original findings are still in effect and have not changed. Bay Valley Foods currently has 530 employees (approximately 93 percent minorities), in the Town of Faison (population 781). Total wages and compensation are over \$14 million/year and total purchases made by the company within the State and local area is approximately \$26 million/year.

At this time, there are no proven end-of-pipe technologies for reducing the chloride limits further, leaving waste minimization as the most proven technology that is economically feasible. The EPA concurs with the State, pursuant to 40 CFR Section 131.20, that information available at this time does

not show that the CWA Section 101(a)(2) uses are attainable, and continuance of the variance conditions is consistent with the CWA and 40 CFR Part 131.

The new permits for both Mount Olive Pickle Company and Bay Valley Foods require the companies to continue to study and evaluate new and emerging chloride removal technologies. The facilities are also required to use a qualified waste reduction specialist to specifically evaluate source reduction of chloride. Status reports are required to be submitted by March 31 of each year. Both permits reflect a comprehensive review of the chloride variance and requirements for continued research. The next required review of these variances will occur during the next triennial review and will ensure that the activities required by the permit are on track.

The Division of Water Quality NPDES permitting staff is to be commended for diligently working to ensure that the variances are reflective of the most advanced waste minimization techniques available and are the highest achievable reduction in chloride discharges for both facilities. The EPA also appreciated the NPDES staff's early coordination with the EPA during the review of the variances.

If you have any questions, please contact me at 404-562-9345 or have a member of your staff contact Ms. Lisa Perras Gordon at 404-562-9317.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Giattina', with a long horizontal flourish extending to the right.

James D. Giattina
Director
Water Protection Division

cc: Ms. Dianne Reid, NCDWQ

Mr. Tom Belnick, NCDWQ

